

STATE OF MICHIGAN
COURT OF APPEALS

CHERYL DWORMAN,

Plaintiff-Appellant,

v

AUTO CLUB INSURANCE ASSOCIATION,

Defendant-Appellee.

UNPUBLISHED

April 6, 2006

No. 259539

Oakland Circuit Court

LC No. 2003-047846-NF

Before: Smolenski, P.J., and Owens, and Donofrio, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order dismissing her complaint pursuant to MCR 2.116(C)(4) (lack of subject-matter jurisdiction). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

After a December 1997 automobile accident, plaintiff filed this action against her no-fault insurer requesting reimbursement for approximately \$16,700 in accident-related medical expenses, costs, \$9,000 in statutory attorney fees, and statutory interest under the no-fault act. The circuit court found that the requested medical expense damages fell below the \$25,000 circuit court jurisdictional threshold, and that the attorney fees and interest plaintiff sought did not count toward the amount in controversy. Therefore, it dismissed the complaint pursuant to MCR 2.116(C)(4).

This Court reviews de novo the circuit court's summary disposition ruling, as well as the jurisdictional question involved in this case. *Travelers Ins Co v Detroit Edison Co*, 465 Mich 185, 205; 631 NW2d 733 (2001). "When reviewing a motion . . . under MCR 2.116(C)(4), we must determine whether the pleadings demonstrate that the defendant was entitled to judgment as a matter of law or whether the affidavits and other proofs show that there was no genuine issue of material fact." *Service Employees Int'l Union, Local 466M v City of Saginaw*, 263 Mich App 656, 660; 689 NW2d 521 (2004).

Circuit courts in Michigan "have original jurisdiction to hear and determine all civil claims and remedies, except where exclusive jurisdiction is given . . . by statute to some other court." MCL 600.605. Under MCL 600.8301, district courts in Michigan possess "exclusive jurisdiction in civil actions when the amount in controversy does not exceed \$25,000.00."

In *Krawczyk v Detroit Automobile Inter-Ins Exch*, 117 Mich App 155, 162-164; 323 NW2d 633 (1982), rev'd in part on other grounds 418 Mich 231; 341 NW2d 110 (1983), this Court addressed the *amount in controversy* for purposes of MCL 600.8301. In *Krawczyk*, also a case involving the no-fault act, the district court had awarded the plaintiff work-loss benefits, costs, and attorney fees and interest specifically contemplated by the no-fault act, totaling \$12,435.95, which amount exceeded the district court's then jurisdictional limit of \$10,000. *Id.* at 157-158, 162-163. The defendant challenged the district court's jurisdiction to enter a judgment that surpassed its jurisdictional limitation, and this Court explained that the amount in controversy under MCL 600.8301 did not include the amounts of attorney fees, costs, and interest awarded by the district court. *Krawczyk, supra* at 162-163. "As a general rule, neither costs, attorney fees nor interest is considered in determining the jurisdictional amount." *Id.* at 163, citing 20 Am Jur 2d, Courts, §§ 159-163, pp 503-506. This Court concluded that because the damages awarded amounted to \$7,746, they fell within the district court's "amount in controversy jurisdictional limitation." *Id.*

In this case, accepting as due all no-fault damages alleged by plaintiff, these damages total approximately \$16,700, well within the \$25,000 exclusive jurisdiction of the district court. MCL 600.8301. Because, "[a]s a general rule, neither costs, attorney fees nor interest is considered in determining the jurisdictional amount," the amount in controversy in this case does not include plaintiff's asserted entitlement to \$9,000 in statutory attorney fees, MCL 500.3148, or interest under MCL 500.3142.¹

In support of the proposition that, when determining the amount in controversy, the circuit court should have taken into account the statutory attorney fees and interest, plaintiff misplaces her reliance on a footnote in *Peters v Gunnell, Inc*, 253 Mich App 211, 213; 655 NW2d 582 (2002), an action premised on the sales representatives' commissions act (SRCA), MCL 600.2961. *Peters* is distinguishable because (1) the plaintiff in *Peters* alleged in good faith damages approximating \$25,000 (at least \$24,306.28), the threshold between district and circuit court jurisdiction, and (2) unlike the conditional no-fault act attorney fee and interest provisions at issue here, MCL 600.2961(6) *mandates* that a prevailing party receive an award of costs and attorney fees. *Peters, supra* at 224 n 10.

Because plaintiff's asserted damages fell well within the \$25,000 exclusive jurisdictional threshold of the district court, the circuit court properly dismissed the complaint pursuant to

¹ Plaintiff suggests that the filing of her complaint in the district court would have precluded her from recovering attorney fees, costs, and interest to the extent these amounts caused an ultimate award to exceed \$25,000. But as this Court explained to the contrary, "[a] valid damage award may be combined with costs, attorney fees and interest to exceed the jurisdictional amount without rendering the excess amount void or depriving the district court of jurisdiction." *Krawczyk, supra* at 163.

MCR 2.116(C)(4). *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 399; 651 NW2d 756 (2002).

Affirmed.

/s/ Michael R. Smolenski

/s/ Donald S. Owens

/s/ Pat M. Donofrio